

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Otter
Tail Power Company and Others for
Certification of Transmission Facilities in
Western Minnesota

**ORDER GRANTING MOTION FOR
PROTECTIVE ORDER AND STATING
ISSUES TO BE CONSIDERED**

Based upon the record herein, and for reasons set forth in the following
Memorandum, the Administrative capital Judges make the following:

ORDER

Issues

1. The issues to be determined in this recommenced matter are
2. Whether the Applicants' demand for electricity cannot be met more cost effectively through conservation and DSM. This involves analysis under Minn. Stat. §§ 216B.243, subd. 3; 216B.243, subd. 3(8); and § 216B.241, subd. 1c, enacted by the Legislature in its last session.
3. Whether the applicants have shown that any non-renewable energy resource selected is less expensive than power generated by a renewable energy source. This involves analysis under Minn. Stat. §§ 216B.243, subd. 3a; and 216B.2422, subd. 4; and 216B.1691, enacted by the Legislature in its last session.
4. The change in the costs of energy from a smaller, 500 MW, Big Stone II. This is relevant to the comparative analyses involved in the foregoing issues and may be examined. This would include such sub-issues as whether the Applicants' use of \$9.00 as the cost of carbon dioxide regulatory costs is appropriate and whether it's new levelized cost analysis is appropriate.
5. Consideration of transmission alternatives is not an issue in this matter because the proposed transmission lines are not significantly affected by the proposed reduction in the size of the Big Stone II generation facility. For the same reason, the Environmental Impact Statement is not an issue.

Motion for a Protective Order

6. The Applicants' Motion for a Protective Order is **granted**.

Dated: November 30, 2007

/s/ Steve M. Mihalchick

STEVE M. MIHALCHICK
Administrative Law Judge

/s/ Barbara L. Neilson

BARBARA L. NEILSON
Administrative Law Judge

MEMORANDUM

As required by the Scheduling Order, on November 19, 2007, Statements of the Issues were filed by the Applicants, Joint Intervenors, Excelsior Energy, and the Department. The Statements were in large part consistent with one another. Where they are not, we believe the analysis of the Department is correct and we adapted as the basis for the foregoing Order.

Excelsior Energy suggested that the lack of participation by GRE and SMMPA in this recommenced proceeding would need to be addressed in new findings. That's true to the extent that the evidence regarding the remaining five participants will need to be addressed. The reason that GRE and SMMPA withdrew from the project does not appear to be relevant.

The Applicants argue that the cost of future carbon dioxide regulation has already been considered and its use of \$9.00 per ton suggested by the Department to the Commission "seems to be the only proxy" available. They may be correct, but the issue of what to apply in this proceeding is still open to some dispute.

S.M.M./B.L.N.